

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:21-CV-174-D

CARMEN ELECTRA a/k/a TARA LEIGH
PATRICK, et al.,
Plaintiffs,
v.
AMPARO GONZALES SYLVAIN d/b/a
CAVE GENTLEMEN'S CLUB and
AMPARO SYLVAIN,
Defendants.

ORDER

This matter is before the clerk on the motion for entry of default [DE-19] filed by plaintiffs, seeking entry of default as to defendants Amparo Gonzales Sylvain d/b/a Cave Gentlemen's Club and Amparo Sylvain.

Local Civil Rule 55.1 provides that to obtain an entry of default, “[t]he moving party shall serve, in the manner provided in Fed. R. Civ. P. 5, any party that has failed to appear . . . with the motion for entry of default” Local Civil Rule 55.1(a). Here, plaintiffs’ attorney included a certificate of service with the motion for entry of default which states: “I hereby certify that on this 2nd day of February 2022, the foregoing was electronically filed with the U.S. District Court Clerk, Southern District of North Carolina [sic], by using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants.” See Mot. for Entry of Default [DE-19] at p. 3. Because defendants have not appeared in this action, however, they are not CM/ECF participants for this case. Consequently, it does not appear that plaintiffs have served the motion for entry of default on either defendant.

Accordingly, plaintiffs' motion for entry of default [DE-19] is DENIED without prejudice. Plaintiffs may file a renewed motion for entry of default within 21 days of the filing date of this order. If plaintiffs fail to file a renewed motion within 21 days, the court will require plaintiffs to show cause why the action should not be dismissed as to defendants Amparo Gonzalez Sylvain d/b/a Cave Gentlemen's Club and Amparo Sylvain.

SO ORDERED. This the 1st day of March, 2022.

/s/ Peter A. Moore, Jr.,

Peter A. Moore, Jr.
Clerk of Court